IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 4009 of 2006
Date of decision : 2.11.2006.

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Parties Name

Bhagwan Singh and others

..... Petitioners

vs.

Jora Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. P.S. Dhaliwal, Advocate
for the petitioners.

Sh. R.K. Battas, Advocate for
respondents No. 1 and 2.

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S.N. Aggarwal, J. (Oral)

The petitioners are the plaintiffs in the learned trial Court. They had filed the suit for possession regarding land measuring 103 kanals 4 marlas situated in village Kisangarh Sedha Singh Wala, Tehsil Budhlada on the basis of a registered Will dated 12.6.1981 executed by Gurnam Kaur in their favour. The said suit was contested by the respondents, who were defendants in the learned trial Court.

Issues were framed. The parties led the evidence.

The submission of the learned counsel for the petitioners was

that Hazura Singh and Atma Singh were the attesting witnesses of the Will dated 12.6.1981. Hazura Singh was not traceable on which the petitioners had examined Atma Singh as PW-8. However, he had turned hostile and the learned trial Court has permitted the petitioners to cross examine Atma Singh. Accordingly, cross examination was conducted. Thereafter, Atma Singh was cross examined by the respondents herein by which he made a statement to the prejudice of the petitioners un-related to the Will dated 12.6.1981. Therefore, the petitioners filed an application for permission to re-examine Atma Singh in accordance with the provisions of Section 137/138 of the Indian Evidence Act but the said application was dismissed by the learned trial Court vide order dated 4.2.2006.

Thereafter, petitioners filed an application for review. It was also dismissed by the learned trial Court vide order dated 19.4.2006.

Hence, the present petition.

The submission of the learned counsel for the petitioners was that they want to re-examine Atma Singh PW-8 only on that material which has come against them in the cross examination by the defendants and that too un-related to the Will dated 12.6.1981.

The submission of the learned counsel for the respondents was that the petitioners have no right to re-examine the witness relating to the Will dated 12.6.1981, as they have already examined him and cross examined him.

After hearing the arguments, the impugned orders dated 4.2.2006 and 19.4.2006 are set aside and the petition is accepted. The petitioners are held entitled to re-examine/cross examine Atma Singh

PW-8 with regard to the material which has come in the cross examination conducted by the respondents which is un-related to the Will dated 12.6.1981.

Disposed of.

(S.N.Aggarwal)
Judge

2.11.2006.
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